

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1507 of 1986

with

SPECIAL CIVIL APPLICATION No 1412 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 NO

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GAURAVKUMAR J SHAH

Versus

GUJ HOUSING BOARD

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Appearance:

1. Special Civil Application No. 1507 of 1986  
MR BR PARIKH for Petitioner  
MRS KETTY A MEHTA for Respondent No. 1  
SERVED for Respondent No. 2, 3
2. Special Civil Application No 1412 of 1992  
MR BR PARIKH for Petitioner  
MRS KETTY A MEHTA for Respondent No. 1  
SERVED for Respondent No. 2, 3

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 26/08/96

ORAL JUDGEMENT

Special Civil Application No.1507/86 under Article 226 of the Constitution of India has been filed against the judgment passed by the learned Assistant Judge, Kheda at Nadiad so far as it relates to imposing of condition of depositing arrears of amount. The grievance of the petitioner is that at the time of delivery of possession of the house, he found that the construction of the tenament was not as per the contract and as per the specification given by the respondent Board and the tenament allotted to the petitioner was not in proper condition for residence. There were cracks in the wall and roofs, and the roof is in dilapidated condition. There was no water, light and gutter facilities. It appears that in view of the observations made by this Court at the time of admission, the learned Advocate for the petitioner made a statement that he will file a substantive petition with respect to the poor construction of the tenament. The Court also granted ad-interim relief against implementation of the order of the learned Assistant Judge so far as the payment of arrears within a period of two months is concerned. The Court directed that the arrears may be paid on monthly instalments of Rs.250/- p.m. to the Housing Board. It is stated that the petitioner has already paid the purchase price. In view of this, the order of the learned Assistant Judge with respect to payment of arrears, does not survive and the same is accordingly quashed and set aside.

2. Keeping in view the peculiar facts of the case, the petitioner does not want to further insist on with respect to the condition of the construction of the house and as such Mr B R Parikh, learned Advocate for the petitioner, seeks permission to withdraw Special Civil Application No.1412/87, under instructions of his client. Considering all the facts and circumstances of the case, it is desirable that no interest or penalty is charged by the Housing Board with respect to the subject tenament.

3. In view of the aforesaid, Special Civil Application No.1507/86 is allowed to the aforesaid extent. Rule is made absolute accordingly. So far as Special Civil Application No.1412/87 is concerned, the same is dismissed as withdrawn and Rule is discharged.

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